



FINAL REPORT

CAPITAL MARKETS AUTHORITY

PROCUREMENT REVIEW

REVIEW PERIOD: 1 JULY 2007-30 JUNE 2008

MARCH 2010

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ACRONYMS

AIE	Authority to Incur Expenditure
AMP&L	Assistant Manager Procurement & Logistics
AO	Accounting Officer
CEO	Chief Executive Officer
CMA	Capital Markets Authority
D	Minor Deviations
DD	Moderate Deviations
DDD	Major Deviations
DP	Direct Procurement
F/Y	Financial Year
GOK	Government of Kenya
LPO	Local Purchase Order
LSO	Local Service Order
LVP	Low value Procurement
MF	Manager Finance
MHR&A	Manager Human Resources & Administrations
OIT	Open International Tender
ONT	Open National Tender
PC	Procurement Committee
PE	Procuring Entity
PIN	Personal Identification Number
PPDA	Public Procurement and Disposal Act
PPDR	Public Procurement and Disposal Regulations
PPOA	Public Procurement Oversight Authority
PU	Procurement Unit
PV	Payment Voucher
RFP	Request for Proposal
RFQ	Request for Quotations
RT	Restricted Tender
SP	Satisfactory Performance
TC	Tender Committee
VAT	Value Added Tax

EXECUTIVE SUMMARY

This report presents the results of the procurement review of the Capital Markets Authority carried out by the Public Procurement Oversight Authority between the months of April and May 2009. The objective of the exercise was to review CMA's procurement processes for the period 1 July 2007 – 30 June 2008, in order to determine the level of compliance with the Public Procurement and Disposal Act 2005, Public Procurement and Disposal Regulations 2006, Circulars, and Directives issued by the Public Procurement Oversight Authority (PPOA) and benchmark the processes with other generally accepted principles of good procurement practice.

The methodology of the review involved verification of the relevant procurement documents such as the Tender/Procurement Committee minutes, Standard Tender documents, payment vouchers, Local Purchase/Service Orders, Letters of Notification, Contracts, etc. The officer who performed the procurement functions within the review period was also interviewed to clarify on certain issues of concern to the reviewers. The review also considered the reports of other reviews carried out during the review period and the current status of the procurement function at the Authority.

The findings of the review emanate from a sample of 45 number mostly high value procurements that were carried out during the review period by the Authority. The Authority did not keep Tender/Quotation registers so the reviewers were forced to extract the sample from the payment vouchers with the assistance of officers from the Accounts and Procurement sections who were very cooperative in availing the payment vouchers and information requested by the reviewers.

It was generally observed that procurement and inventory management processes were not performed within the requirements of the procurement law. For instance, all purchases below the Tender Committee threshold carried out within the review period were not adjudicated by the Tender or Procurement Committees as required by the PP&D Act 2005. The Authority's Store did not use stores records in issuing nor receiving processes. However, there were minutes of ad-hoc tender committee for ten of these sampled procurements. The Procurement Unit is a section under the Finance department up to now and procurement functions were carried out by the Human Resource Manager since the gazetment of the PP&D Regulations in January 2007 until July 2008 when they were transferred to the Manager Finance who is also a formally appointed member of the current Tender Committee. Standard Tender documents were not used for all these procurements and other procurement processes such as evaluation of tenders, notification of awards amongst others were not done within the requirements of the law.

Presently, the procurement unit is still a section under the Finance department where the Finance Manager is formally appointed the Head of Procurement Unit. However, procurement functions are carried out by procurement professional employed in January 2009 and is formally designated as an Assistant Procurement Manager. She is assisted by

one procurement professional designated as a Stores Assistant. Procurement processes are carried out as per the requirements of law and standard tender documents are in use now.

The report has documented an action plan outlining various corrective measures with specific timelines to be implemented by the Procuring Entity to address the anomalies identified during the review and improve the compliance level of the procurement function. This action plan was discussed and agreed upon for implementation during an exit meeting held on 25th September, 2009. PPOA will monitor and evaluate the implementation of the action steps contained in the plan.

1.0 INTRODUCTION

The Public Procurement and Disposal Act, 2005 (the Act) became operational with the gazettelement of the Public Procurement and Disposal Regulations 2006 (the Regulations) on 1st January, 2007. The Act established the Public Procurement Oversight Authority (PPOA) whose mandate among other functions is to oversee the implementation of the Act and the Regulations in public entities and recommend areas of improvement to enhance delivery of services to customers.

The Authority is currently carrying out comprehensive procurement reviews (audits) in various procuring entities in the country to determine the level of compliance with the laws and adherence to best procurement practices in spending Public funds. In assessing compliance, “procurement reviews” have been used in place of “audits” to distinguish these activities from those of the Kenya National Audit Office. The Capital Markets Authority (CMA) is among those that were identified for this exercise.

Following our letter Ref. No. PPOA 4/30/74 VOI. I (13) dated 16th March, 2009 two officers from the Authority visited the Capital Markets Authority from 23rd March, 2009-29th May, 2009. They were able to talk to the Senior Administrative Officers and their staff involved in Procurement. The Officer In charge of procurement functions and her staff took the compliance team from PPOA through the processes in procurement at the Capital Markets Authority, and the general observations of the procurement review period are as detailed below.

1.1 Mandate of PPOA

Section 49.1(a) of the Act, provides for the PPOA’s procurement review function. It states that the Director-General or anyone authorized by him may inspect at any reasonable time the records and accounts of a procuring entity, and the procuring entity and contractor shall co-operate with and assist whoever does such an inspection.

The Ag. Interim Director General wrote to the Chief Executive Officer the Capital Markets Authority on 3rd March 2009, informing her that the review would take place and attaching a checklist of the information and documents to be provided by the Authority.

1.2 Responsibility of Procuring Entity

Section 27(1) of the Public Procurement and Disposal Act 2005 provides that a public entity shall ensure that this Act, the Regulations, and any directions of the PPOA are complied with respect to each of its procurements.

1.3 Entry Meeting

An entry meeting with CMA's management team was held on 20th March, 2009 to discuss the scope of the review, the review plan, the reviewers' expectations, access to documentation and other administrative issues. The Acting Director Technical PPOA, Mrs. Jane Njoroge led the review team to the entry meeting. The CMA team was led by Mr. James Katule, the Manager Finance and included among others, the Chair of the tender committee, Heads of User Departments, and Tender Committee Members.

Present

NO	Name	Designation	Organisation
1	Mr. James Katule	Manager Finance	CMA
2	M/s Rose Lumumba	Manager Legal Affairs	CMA
3	M/s Angela Kariuki	Asst. Manger Legal Affairs	CMA
4	Mr. Ongondo Wilberforce	Asst. Manager ICT	CMA
5	Mrs. Janet Wesonga	Asst. Manager Proc & Logistics	CMA
6	Mr. Sammy Mulanga	Manager Corporate	CMA
7	Mr. Michael Mechumo	Manager Administration & HR	CMA
8	Mr. Johnstone Oltetia	Asst. Manager market Supervision	CMA
9	Mr. Kamunyu Njoroge	Corporate Comm. & Mrkt Manager	CMA
10	Mrs Jane Njoroge	Ag. Director technical Services	PPOA
11	Mr. Peter Ndungu	Ag Manager Compliance	PPOA
12	Joseph K. Kimani	Snr. Asst Compliance Officer	PPOA

1.4 Specific Review Objectives

The main purpose is to carry out review of the current status of CMA's procurement contracting, and implementation processes and systems, in order to establish the state of compliance with the new procurement law, circulars and directives issued by the Authority.

The specific objectives of this procurement review are:

- a) To verify whether the procurement and contracting procedures, processes and documentation followed by CMA, in order to determine whether they were carried out in accordance with the Public Procurement Act and the associated Regulations;
- b) To establish CMA adherence to the general principles of economy and efficiency; equal opportunities; transparency; integrity and fairness; and promotion of local industry;
- c) To determine technical compliance, physical completion and price competitiveness of each contract in the selected representative sample;
- d) To review the capacity of CMA to handle procurement efficiently; comment on the quality of procurement and contracting; and identify reasons for delays, if any;
- e) To establish whether adequate systems are in place for procurement planning, implementation and monitoring and whether reliable documentation is maintained as required by the regulations;
- f) To establish whether remedial actions made in the previous audits/reviews have been carried out successfully;
- g) To make recommendations for improvement in an action plan which will be followed up to establish whether these improvements have been implemented;
- h) To assist in clarification of areas where CMA may have misunderstood the requirements of the legislation;
- i) To determine challenges faced by the CMA in the implementation of the Act.

1.5 Review Methodology

1.5.1 Key documents

The review concentrated on studying the documents requested by the reviewers to gather information on the conduct of the procurement and inventory management processes to support any findings regarding the levels of compliance with the procurement law. The documents that were studied by the reviewers included:

- Minutes of the Tender Committee.

- Payment Vouchers related to the sampled procurements.
- The Authority's current Procurement Manuals.
- Local Purchase/Service Orders.
- Standard Tender/Request for Proposal Documents.
- Audit Report carried out by PriceWaterhouseCoopers.
- Evaluation Committee Minutes.
- Official correspondences of the Authority.
- Quotation documents.

1.5.2 Interviews and Discussions

The Review team held discussions/interviews with relevant staff/officials of the Procuring Entity directly involved in the procurement process to ascertain general and specific information about the procurement/disposal processes. Specifically the reviewers interviewed and held discussions with the following persons:

No.	Name of officer	Designation	Department
1	M/s Stella Kilonzo	Chief Executive Officer	CMA
2	Mr. James Katule	Manager Finance and Head of Procurement Unit	Finance
3	Mr. Michael Mechumo	Manager Human Resources and Administration	Human Resources and Administration
4	Mrs. Janet Wesonga	Asst Manager Procurement and logistics	Finance
5	Mr. Gerald Omondi	Stores Assistant	Finance
6	Mr. Salvano Chebii	Registry Assistant and former In-charge of stores	Human Resources and Administration
7	Mary Kiptoo	Administration officer former In-charge of stores	Human Resources and Administration

1.5.3 Sampling

According to information provided by the Finance department, a total of 179 payments had been made by the Authority during the review period. The reviewers identified those that were procurement and picked a sample of 45 procurement transactions for review purposes. The rationale of this sampling exercise was explained to all the staff of the Authority with whom the reviewers interviewed or held discussions with. Those procurements that were sampled for review are as shown in Chapter 3.

1.6 Rating Criteria

A range of performance indicators to rate the deviations from the Act and Regulations were selected as indicated in the PPOA Review Manual. The criteria are shown in the table below:

<p>Major deviation DDD</p>	<p>Where the major requirements of the PP&D Act and regulations were not adequately followed. This could cause material, financial loss or carry risk for the regulatory system or the entity's reputation. These cases include deficiencies in the structures and systems to implement the law and regulations, or where the procedures have been so flawed that there is severe risk of mis-procurement or procurement fraud such as:</p> <ul style="list-style-type: none"> • Procuring entity is not established and operational; • Procurement procedures are not integrated within the financial framework of the entity; • Main structures are not appointed and operationalised e.g. <ul style="list-style-type: none"> ✓ Accounting Officer ✓ Tender Committee ✓ Procurement Unit ✓ Procurement Committee ✓ Disposal Committee ✓ Inspection and Acceptance Committee ✓ Tender Opening Committee ✓ Evaluation Committees. • Coverage not complete <ul style="list-style-type: none"> ✓ Procurement process ✓ Contract management ✓ Disposal ✓ Categories • Standard and specific committees not meeting as stipulated; • No consolidated procurement plan linked to approved budget; • Lack of procedures for making procurement decisions; • Not adhering to the threshold matrix;
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	<ul style="list-style-type: none"> • Open tenders not advertised as provided for in the Act and regulations • Choice of improper procurement procedures; • Procurements split or inflated; • Contracts are not awarded to qualified person; • Unjustified termination of procurement proceedings; • Lack of approved pre-qualified list for suppliers; • Lack of annual disposal plan; • Inappropriate influence on evaluation; • Inadequate protection of confidential information; • Lack of comprehensive procurement records; • Restricted /direct procurement tendering not approved by TC; • Standard tender documents not used; • Not reporting to PPOA as required for <ul style="list-style-type: none"> ✓ Contracts of over Ksh 5million ✓ Direct Procurement ✓ Terminated proceedings ✓ Disposal to staff • Failure to advertise bid opportunities for contracts above certain value thresholds; • Many key procurement records that are stipulated by law for retention are missing <p>Such cases warrant immediate attention by the Accounting Officer.</p>
<p>Moderate Deviation</p> <p>DD</p>	<p>Where procurement procedures were considered to have significant omissions or deviations, including:</p> <ul style="list-style-type: none"> • Some procurement records are missing; • Lack of central comprehensive procurement files; • Open tenders not the main method of procurement; • Procurement Unit not functioning as per the regulations. • Lack of signatures on key minutes • Choice of selection procedure not justified; • Consolidated Procurement plan not updated; • Contracts awarded not from the approved list of suppliers; • Criteria for the evaluation of proposals not specified in the tender documents; • Award letter missing; • Description of goods, works or services in the bid not adequate; • Direct procurement is created by dilatory conduct of the PE; • Disposal procedures not followed; • No evidence of analysis of bid documents by Tender Evaluation Committee; • Lack of evidence of commencement certificate in contract;

	<ul style="list-style-type: none"> • Lack of evidence of contract being countersigned by AO; • Evidence of performance bond not in the contract file; • No evidence of the use of weighting in the award criteria in tender documents; • Lack of Inspection and acceptance committee; • No justification/Authorization for applying procurement methods; • No schedules of duties for initiating, certifying and approving officers; • Non-disclosure of tender evaluation details; • Lack of notice of invitation of expressions of interest and preparation of shortlists for RFPs; • No specified period of validity of tenders; • Unjustified modification and withdrawal of tenders; • Pre-qualification proceedings not adequate; • Absence of award criteria in tender documents; • Record of procurement proceedings not comprehensive; • Lack of justification for direct and restricted procurement; • Termination of procurement proceedings not reported to PPOA; and <p>These weaknesses warrant immediate attention of the senior management.</p>
<p>Minor Deviation D</p>	<p>Where procurement practices and procedures conformed to most regulations, though there were deviations, which are relatively small in quantity, size or degree and are low in risk. These weaknesses warrant immediate attention of the Procurement Unit or user department. The deviations include:</p> <ul style="list-style-type: none"> • Absence of an award letter in procurement file; • Absence of authorization date of LPO; • Absence of invoice copy in the procurement file; • Absence of LPO Authorization; • Absence of LPO or LSO in the procurement file; • Absence of payment voucher copy in the procurement file; • Absence of Procurement Request in the procurement file; • All tenderers not informed of the result of a tendering process in accordance with the law; • Date of evaluation committee report or recommendation letter missing; • Date of the bid opening missing; • Date of the TC meeting awarding the contract missing; • Evidence of award by Tender Committee not in file; • No evidence of contract being countersigned by AO in

	<p>procurement file;</p> <ul style="list-style-type: none"> • Goods or Services Received Note missing in file; • Inadequate monitoring of contracts awarded; • Methods and criteria for selecting firms and for awarding contracts are not documented; • Records are available but not in the procurement file; and • Time limits for replies not adhered to <p>These weaknesses should be addressed by senior management as part of an ongoing improvement plan.</p>
Satisfactory Performance	<p>Where procurement practices and procedures met the requirements of the law and regulations and were considered to meet standards of good practice.</p>

2.0 THE CAPITAL MARKETS AUTHORITY

2.1 Mandate

The Capital Markets Authority is established by an Act of Parliament (Cap 485A) to promote, regulate and facilitate the development of an orderly, fair and efficient Capital Markets in Kenya.

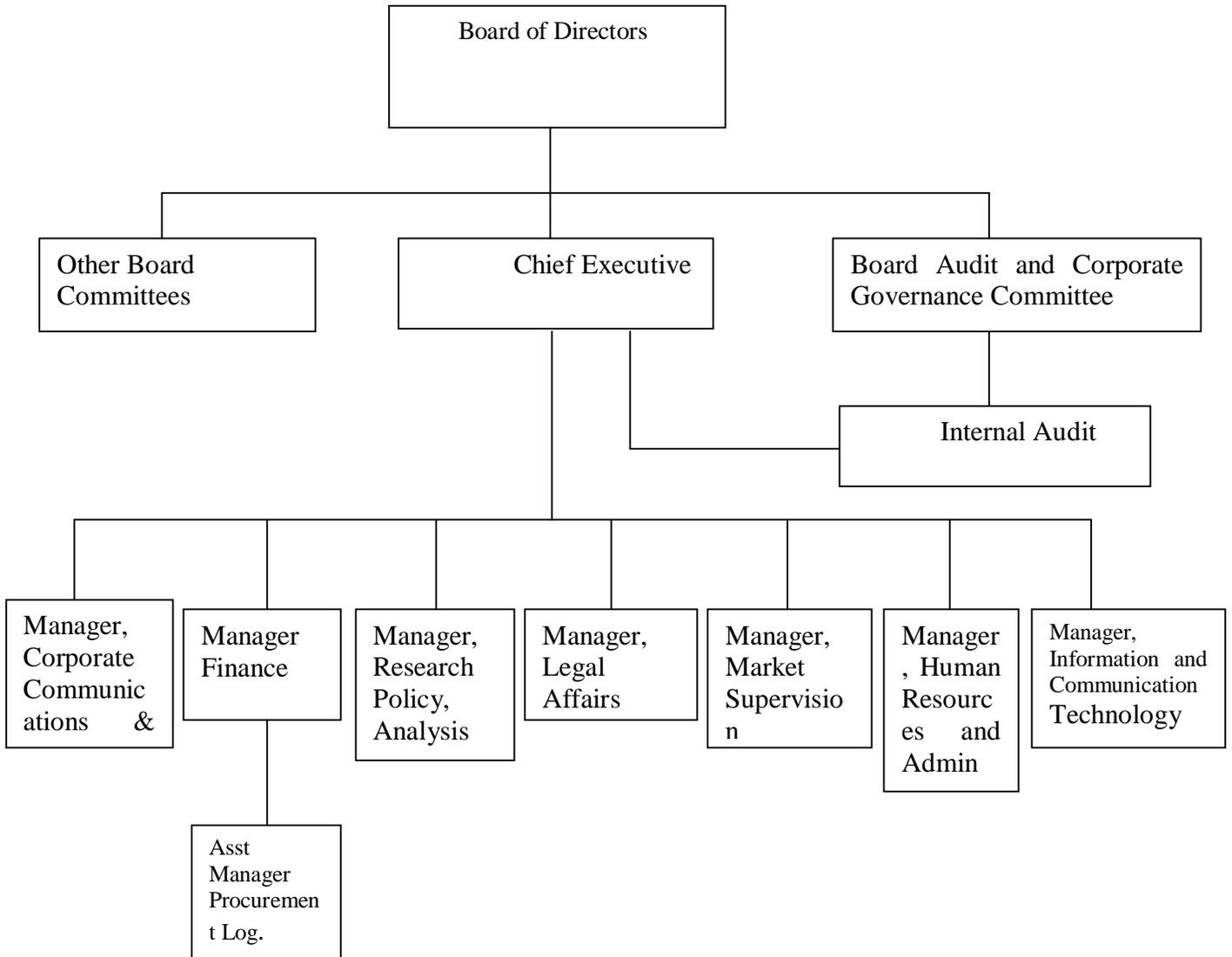
2.2 Vision of CMA

To be a trusted and professional regulator and promoter of deep and vibrant Capital Markets in Kenya.

2.3 Mission of CMA

To facilitate the development of orderly, fair, and efficient Capital markets in Kenya through effective regulation that encourages innovation & safeguard market integrity.

2.4 Organizational Structure of CMA



The staffing level to each designation at Capital Markets Authority is as shown in the table below:

No.	DEPARTMENT	NO OF STAFF	REMARKS
1	Chief Executive's office	5	
2	Finance	6	
3	Markets Supervision	26	
4	Research, policy Analysis & Planning	7	
5	Legal Affairs	13	
6	ICT	6	
7	Corporate Communication & Market	7	
8	Human Resource & Admin.	16	
9	Internal Audit	Vacant	It is in the CMA establishment structure.
	Total	86	

2.4.1 Administration

The Accounting Officer for CMA is responsible for ensuring that the Public Procurement Act and Regulations are adhered to. In this respect her duties include (*PPDA Section.27 and Regulation 7*):

- a) Establishing all standing committees as stipulated in the Act including Tender Committee, Procurement Committee, Disposal Committee and Inspection and Acceptance Committee.
- b) Establishing a Procurement Unit staffed to an appropriate level with procurement professionals.
- c) Signing contracts for procurement activities on behalf of the procuring entity for contracts entered into in accordance with the terms and conditions of the award.
- d) Ensuring annual procurement plans are prepared.
- e) Ensuring that the procuring entity properly documents procurement proceedings and manages records in accordance with the regulations.

2.4.2 Responsibility of the Head of Procurement Unit

The scope of the work of the Procurement Unit is stipulated in Regulation 8(3) which can be summarised to include:-

- a) The organization of procurement and procedures to ensure compliance.
- b) Record keeping of procurement documents.
- c) Staffing and professionalism of procurement personnel.
- d) Development of Consolidated Procurement plan and its adherence.
- e) Inventory management system and warehouses for the CMA.
- f) Contracts Management from inception to completion.
- g) Secretary to the Tender Committee.
- h) Any other issues within the purview of the Act and Regulations.

3.0 GENERAL FINDINGS AND RECOMMENDATIONS

The findings explained below were based on the analysis of the relevant documents and information provided relating to the sampled cases as shown in the following table:

Item No	Description	Method	Name of Supplier/Contract or	Amount (Ksh)
1.	Executive staff recruitment	ONT	Osano & Associates	371,450
2.	Recruitment Consultants	ONT	Hawkins & Associates	2,283,808
3.	Forensic fees	ONT	Pricewaterhousecoopers	7,009,827.05
4.	Medical Cover Year 2007/08	ONT	Eagle Africa in brokers Ltd	307,632
5.	Purchase of Mandarin Library Automation system	RFP	Mandarini Library Automation INC	148,090 This was paid thro' a Telegraphic Money Transfer
6.	Interception reports – REIT/CIS	RFP	Vista Capital Ltd	533,484
7.	Fees for consultancy services OTC Market	RFP	Vas Consultants	464,000
8.	Purchase of Stationery	RFQ	Presslines Kenya Limited	206,318.10
9.	Hire of tents and transport	RFQ	Zuri Designs	348,500
10	Hire of mobile rest room	RFQ	Exloosive Limited	315,000
11	Purchase of filing	RFQ	Newline Limited	24,991.5

Item No	Description	Method	Name of Supplier/Contractor	Amount (Ksh)
	cabinet			
12	Purchase of 4 computers	RFQ	Samtech Computer Services Ltd	260,000
13	Purchase of computers, MS office	RFQ	Samtech Computer Services Ltd	176,400
14	Printing pocket diaries	RFQ	Lowe Scanad Kenya Ltd	261,812
15	Purchase of 2 computers	RFQ	Symphony	147,571.20
16	Purchase of printers & MS office	RFQ	Blue Chip Technologies Ltd	153,460
17	Purchase of executive desks, chars etc	RFQ	Fast Choice Limited	57,320
18	Purchase of 11 Laptops	RFQ	Bloomerg Ltd	1,100,000
19	Purchase of chairs & Executive desk	RFQ	Fast Choice Ltd	94,500
20	Carpet cleaning services	RFQ	Parapet Limited	44,110.30
21	Purchase of wall calendars, diaries, desk calendars & Christmas cards	RFQ	Capital Colours Creative Design	1,484,655.00
22	Carpet cleaning	RFQ	Parapet Limited	43,110
23	Purchase of executive desks	RFQ	Fast Choice Limited	297,920
24	Purchase of MS Office 2007	RFQ	Blue Chip Technologies Ltd	242,000
25	Legal fees	RFQ	Mboya Wangong'u Advocates	2,436,000

Item No	Description	Method	Name of Supplier/Contract or	Amount (Ksh)
26	Carpet cleaning	RFQ	Parapet Limited	43,110.20
27	Purchase of Microsoft office 2007	RFQ	Blue chip Technologies	19,500
28	Purchase of various library books	RFQ	Book Point Limited	29,370
29	Purchase of computers	RFQ	Samtech Computer Services Limited	176,400
30	Purchase of Chairs	RFQ	Mecol Kenya Limited	36,540
31	Provision of carpet cleaning services	RFQ	Parapet Limited	43,110
32	Purchase of shelves	RFQ	Mecol Limited	105,724.70
33	Purchase of stationery	RFQ	Almond Print	20,137
34	Purchase of stationery	Direct	Elite book centre limited	338,924.15
35	Purchase of stationery	Direct	Elite Book Limited	39,521.20
36	Provision of professional services	Direct	Oraro and Co. Advocates	1,160,000
37	Purchase of toners	Direct	Elite Book Centre	324,955.20
38	Purchase of photocopying papers	Direct	Elite Book Centre	66,990
39	Purchase of flash disks, photocopy paper, files etc	Direct	Elite Book Centre	59,856
40	Purchase of	Direct	Elite Book Centre	284,128.70

Item No	Description	Method	Name of Supplier/Contract or	Amount (Ksh)
	stationery			
41	Purchase of Nissan saloon (TIIDA)	Direct	DT Dobie	2,200,534
42	Purchase of toners	Direct	MFI Office Solutions	56,072
43	Provision of legal services	Direct	Mbaya & Wamgongu Advocates	1,436,000
44	Purchase of stationery	Direct	Elite Book Centre	10,092
45	Purchase of air tickets	Records not availed	Records not availed	Records not availed

The detailed findings on the conduct of the procurement processes regarding the sampled cases, the structure of the procurement unit and procurement records and information is as explained below:

3.1 Poor record management and filing systems

Findings:

There was no complete procurement file for all sampled procurement cases for as required by Section 45 of the Act and Regulation 34 (3). The procurement documents for the selected cases under review were kept in various departments/sections within CMA which hindered document locality, retrieval, and traceability. Other documents related to the sampled cases were completely not availed. Request for Proposal documents for the procurement of Consultancy Services such as Nyaga Stock Brokers.

Recommendation:

The Accounting Officer should ensure that the procuring entity properly document procurement proceedings and manage records in accordance with Regulation 7 (e). CMA should keep procurement records in line with the requirements of Section 45 of the PPDA and Regulation 34 (3) which require Procuring Entities to maintain an individual file for

each procurement requirement containing all informative documents and communications relating to that procurement.

Response:

This has been corrected. Records of all procurement transactions from initiation to completion are now maintained.

3.2 Segregation of responsibilities

Finding:

The review team noted that currently the Head of Procurement Unit is the Finance Manager by formal appointment although the Secretary to the Tender Committee is the newly appointed Procurement Professional. This hinders systematic and structured decision making in procurement matters as required by Section 26 (1) of the Act. It is therefore difficult to determine who is accountable for decisions made on procurement processes. The role of the Finance Manager is clearly prescribed in the Third Schedule of the Regulations, 2006 where he/she is the Deputy Chairman of the Tender Committee.

Recommendation:

There is an urgent need for the Accounting Officer to restructure the procurement unit so that it is in conformity with the requirement of Section 26 (5) (b) and ensure that persons not responsible for procurement processes do not make decisions on those processes.

Response:

The procurement function is now under legal affairs department and the Assistant Manager Procurement is the secretary to the tender committee having been duly appointed by the Chief Executive.

3.3 Organization and staffing of Procurement Unit

Finding: The Human Resource Manager was in charge of the procurement function since the enactment of the Procurement law in January 2007 until July 2008. It was not clearly known why it took all this long to hire a procurement professional. The procurement unit was poorly coordinated in that the stores functioned without proper inventory records until recently and procurements below the tender threshold were adjudicated by neither the Tender nor Procurement Committees. Currently, there are five staff members in the unit of whom only two are professionally qualified and members of KISM.

Recommendation:

Training for Procurement Unit staff, tender committee members and management staff is essential.

Response:

The procurement unit now has two qualified procurement professionals i.e. the Assistant Manager Procurement and the Stores Assistant. Inventory management records are being well maintained since March, 2009.

3.4 Lack of procurement planning

Findings

There has never been procurement plans in Capital Market Authority thus contravening section 26 (3) (a) of the Public Procurement and Disposal Act, 2005.

Recommendation:

The PU should be preparing annual procurement plans integrated with applicable budget in accordance with section 26 (3) (a) read together with Regulation 20 (1) (2) of PPDA 2005 and PPDR 2006 respectively. All future procurement requests should be linked to the consolidated procurement plan. The procurement plans are living documents and can be adjusted continuously within their period to meet changing needs and changes in budgetary provisions.

Response:

Currently procurement plans have been prepared and approved.

3.5 Lack of Internal Auditor

Findings:

Although the establishment of Capital Market Authority has a vacancy for an Internal Auditor there has never been one. It was explained that the Authority's Board of Directors rejected the recruitment of an Auditor and thus the Authority lacks the internal mechanisms to check on a daily basis the adequacy of the operations undertaken by its various departments. The Authority has instead engaged Price Water House Coopers to offer auditing services on a quarterly basis. The reviewers noted, from the Auditing Report by the aforementioned firm, that the report did not highlight the anomalies in the procurement processes at CMA. For example, all procurements below Ksh 500,000 were not approved by the Tender Committee and the Authority did not have a Procurement

Committee where in that case they were approved by the Officer in charge of procurement and the CEO against the requirements of the procurement law. Sometimes the quorum of the tender committee was not there though approvals were made and payments authorized.

Recommendation:

It is very vital for the Procuring Entity to recruit an Internal Auditor who will be auditing/reviewing transactions on daily basis to prevent some of the procurement anomalies noted the Procuring Entity.

Response:

Two Internal Auditors have since been appointed.

3.6 Lack of transparency in the choice of suppliers

Finding:

It was not clear how suppliers were selected to participate in procurement processes, particularly those involving request for quotations. The review team was not provided with the pre-qualification list of suppliers and contractors that were used in procurement activities for the review period.

Recommendation:

The Authority should have a list of pre-qualified suppliers who shall be considered in a fair and equal rotational basis for participating in request for quotations as required by Regulation 59 of the PP&D Regulations, 2006.

Response:

CMA is currently maintaining a list of pre-qualified suppliers from which it draws its suppliers from on a rotational basis. The list was approved by its tender Committee as per requirement.

3.7 Lack of use of Standard Tender Documents

Findings:

The Procurement Unit does not use appropriate standard tender documents in accordance with Section 29 (4) of the Act and Regulation 29 (1) of the Public Procurement and Disposal Regulations 2006. Request for Proposal documents for the consultancy services

that the Authority procured during the review period were not provided to the reviewers. The stores did not have the standard tender documents as prescribed in the Third Schedule of the Regulations, 2006 and the reviewers were not able to report on stock discrepancies encountered during the review period. However, the Authority has developed its own requisition forms with User Departments to initiate purchases and receive items from the stores.

The Authority did not keep a Tender Register or Quotation Register as required by the law and which made it difficult for the reviewers to know the number of procurements undertaken by the entity or to sample cases for review.

Recommendations:

The Authority should have standard tender documents as required by Section 29 (4) of the Act and Regulation 29 (1) of the Regulations, 2006. It was observed that the entity currently uses standard tender documents as required by the law.

Response:

CMA is currently using standard tender documents as prescribed by PPOA. The procurement unit now maintains a tender register and a quotation register for all its procurement transactions as required by law.

3.8 Publication of procurement and disposal proceedings

Finding:

The entity does not submit to PPOA details of procurement and disposal proceedings as required by the PPOA Circular No 3/2008 of 26 August 2008.

Recommendation:

Submit all the reports required by PPOA namely:

- All contracts over Ksh 5million (PPDA Section 46)for example, the tender for Forensic Audit awarded to Nyaga Stockbrokers Ltd. was worth Kshs. 7,009,827.07 and was not reported to PPOA.
- All terminated procurement proceedings (Act Section 36 (7)).
- All direct procurements over Ksh 500,000.00 (Regulation 62 (3)). The tender for provision of legal services by M/s Mbaya & Wangongu Advocates worth Ksh 1,436,000 was not reported to PPOA.
- All disposals to staff (Regulation 93 (2)).

Response:

CMA is now reporting all requisite contracts to PPOA. It will endeavour to report all terminated procurement proceedings and any disposals to staff to PPOA as required.

3.9 Lack of stock tacking in inventory

Finding:

The review team noted that the Authority does not do any periodic or annual stocktaking pertaining to items in use, stores and equipment as required by Regulation 8 (3) (aa) of the Public Procurement and Disposal Regulations 2006. Stock taking informs the procurement unit on the requisite quantities of items required by the Authority for effective procurement planning and budgeting. It also informs on the discrepancies experienced in the stores for necessary action and promotion of accountability.

Recommendation:

Since stocktaking is a mandatory requirement in procurement law, the Accounting Officer should ensure that the Head of Procurement Unit does it as and when as required.

Response:

This has since been rectified and annual stocktaking was undertaken at the end of the 2008/2009 financial year.

3.10 Handing and taking over of stores and equipment

It was observed during the review that the Procurement Unit does not use accountable handing and taking over documents whenever officers change offices in the procurement function. Three officers have been alternating in the stores functions without use of accountable documents and/or witnesses. There is therefore no proper mechanism for ensuring accountability.

Recommendation:

Proper and accountable documents should be used any time handing and taking over is undertaken and a responsible officer(s) should witness such an occurrence.

Response:

This will be adhered to.

3.11 Lack of reviewing the quarterly reports on quotations

Since there was no procurement committee in place during the review period, the reviewers found out that the tender committee has never reviewed quarterly reports quotations that ought have been awarded by the procurement committee as required by Regulation 10 (2)(n).

Recommendation:

The Head of procurement unit should ensure that procurement committee deliberations are reviewed quarterly by the tender committee.

Response:

The tender committee started reviewing quarterly reports of awards made by the procurement committee from June 2009.

3.12 Absence of Inspection and Acceptance committee.

Finding:

In the F/Y 2007/2008 there was no Inspection and Acceptance committee and therefore no authentication and verification of works, goods and services were done in accordance with Regulation 17 (3) (a-c).

Recommendation:

As there is now the above committee in place, having been appointed on 6th January, 2009, the Head of procurement unit should monitor implementation of the regulation appropriately.

Response:

This was put in place in January, 2009 and has since been inspecting all supplies whose contract value per single item is Kshs. 30,000.00 and above as prescribed under the Regulations.

3.13 Choice of procurement methods

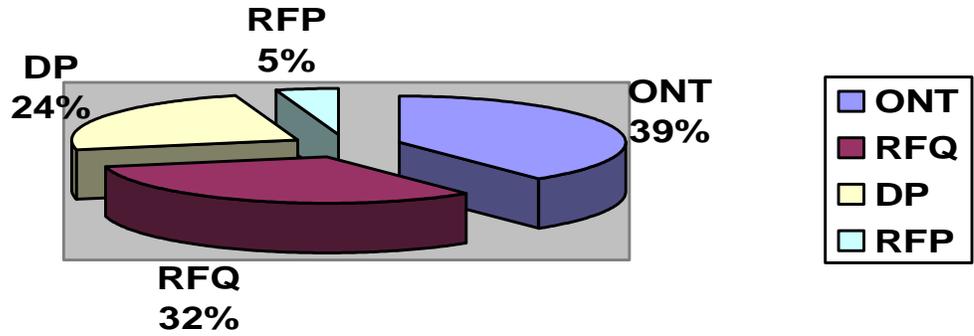
Findings:

The review team observed that there was a general lack of understanding as regards the choice of procurement methods to facilitate the various procurements requirements. Stationery worth Ksh 248,127.70 was purchased using direct procurement procedure

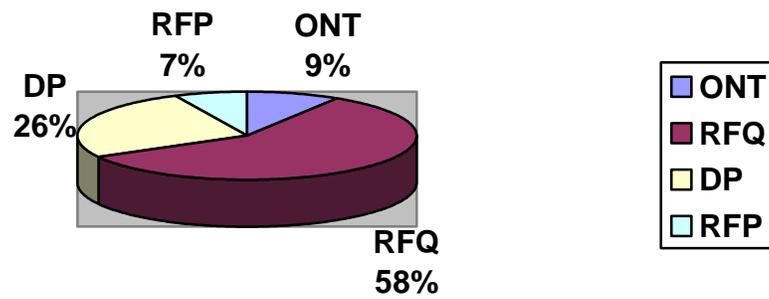
though there was no clear justification why such a method would be used. The team noted that the management at times would approve the use of alternative procurement procedure but there was no indication that the Tender Committee reviewed that choice as required by Regulation (10) (h).

Procurement Method	NO. of Proceedings	Total Value(Kshs.)
Open National Tender	4	9,972,717.05
Request for Quotation	25	8,138,190.00
Direct Procurement	11	5,977,073.25
Request for Proposal	3	1,145,574.00
Total	43	25,233,554.30

Procurement methods by value



Procurement method by number transactions



Recommendation:

The Procurement Unit should adhere to the financial thresholds as given in the procurement law to guide in choice of procurement methods and the other conditions that apply to using alternative procurement procedures.

Response:

This was rectified with the employment of procurement professionals and choice of procurement procedure since January, 2009 been made under the guidelines prescribed in the Act and Regulations.

3.14 Lack of promoting economies of scale

Findings:

The Procurement Unit failed to advise the Procuring Entity on aggregation of procurement to promote economies of scale as required by Regulation 8 (3) (x). Stationery items and computer consumables of similar nature were procured separately through several requests for quotations instead of aggregating them to benefit from economies of scale in procuring them. There were 14 printers using different kinds of toners.

Recommendation:

The head of procurement unit should advise on this requirement so that the Authority can get value for its money in the procurement processes. The disposal committee may recommend disposal of printers and the P.E purchase modern multi-purpose photocopiers which serve in printing and photo-copying simultaneously.

Response:

Procurement unit now aggregates similar items and procures them together thus promoting economies of scale.

3.15 Lack of quorum in Tender Committee meetings.

Findings:

It was observed that Tender committee meetings did not have quorums as required by the procurement law and it went ahead and awarded procurements. For example, minutes of 10th meeting dated 28th April, 2008 thus contravening Regulation 12(2). The minutes were confirmed on 3rd July, 2008 by Mr. James Katule (Deputy Chairman) and not the

then chairman Mr. Sammy Mulang'a. In addition, there was no alternative tender committee contrary to Regulation 12 (1).

Recommendations:

The Authority must ensure that every procurement proceeding is undertaken by the appropriate committee and there is always a quorum as provided for in the Act and Regulations.

Response:

This was addressed from January 2009 the tender Committee has at all times had the right quorum.

3.16 Disposal of Obsolete and surplus stores.

Findings:

A few obsolete and surplus items were noted. These need to be disposed of since they create costs in terms of storage and equally tie funds which would possibly enable the Authority spend on other priority requirements.

Recommendations:

It is recommended that the Authority dispose off these items to possibly untie the money for use elsewhere and reduce the storage costs involved in them.

Response:

CMA is currently at an advanced stage of disposing off obsolete and surplus stores.

4.0 SPECIFIC FINDINGS FROM SELECTED SAMPLES.

	Item Description	Proc Method	Findings
1.	Purchase of 4 computers 4pcs lenovo 9691-49G desktop computers.	RFQ	<ul style="list-style-type: none"> I. No approval from procurement committee; II. No delivery note; III. No S13- counter receipt voucher to certify whether goods were really received; IV. One response, Samtech Computer services Ltd.; V. No Inspection and Acceptance certificates to confirm delivery receipt of goods (Regulation 17(3)(b)); VI. Lack of complete and comprehensive procurement file (Regulation 34(3)); VII. Procurement proceedings not linked to an approved budget line section 26(6).
2.	Purchase of stationery	RFQ	<ul style="list-style-type: none"> I. No approval from procurement committee; II. No delivery note; III. No S13- counter receipt voucher to certify whether goods were really received; IV. One response, Elite Book centre; V. No Inspection and Acceptance certificates to confirm delivery receipt of goods (Regulation 17(3)(b)); VI. Lack of complete and

	Item Description	Proc Method	Findings
			comprehensive procurement file (Regulation 34(3)); VII. Procurement proceedings not linked to an approved budget line section 26(6).
3.	Purchase of computers, MS office 2 pcs Lenovo 9691 -49G desktop computers 2 MS office.	RFQ	I. No approval from procurement committee; II. No delivery note; III. No S13- counter receipt voucher to certify whether goods were really received; IV. One response, Samtech Computer services Ltd.; V. No Inspection and Acceptance certificates to confirm delivery receipt of goods (Regulation 17(3)(b)); VI. Lack of complete and comprehensive procurement file (Regulation 34(3)); VII. Procurement proceedings not linked to an approved budget line section 26(6).
4.	Printing of pocket diaries qty 300 pcs	RFQ	I. No approval from procurement committee; II. No delivery note; III. No S13- counter receipt voucher to certify whether goods were really received; IV. One response, Lowe Scanad Kenya Ltd.; V. No Inspection and Acceptance certificates to confirm delivery receipt of goods (Regulation

	Item Description	Proc Method	Findings
			<p>17(3)(b));</p> <p>VI. Lack of complete and comprehensive procurement file (Regulation 34(3);</p> <p>VII. Procurement proceedings not linked to an approved budget line section 26(6).</p>
5.	Purchase of flasks, p. copy paper, files etc	RFQ	<p>I. No approval from procurement committee;</p> <p>II. No delivery note;</p> <p>III. No S13- counter receipt voucher to certify whether goods were really received;</p> <p>IV. One response, Elite Book centre</p> <p>V. No Inspection and Acceptance certificates to confirm delivery receipt of goods (Regulation 17(3)(b));</p> <p>VI. Lack of complete and comprehensive procurement file (Regulation 34(3);</p> <p>VII. Procurement proceedings not linked to an approved budget line section 26(6).</p>
6.	Purchase of printers & MS office	RFQ	<p>I. No approval from procurement committee;</p> <p>II. No delivery note;</p> <p>III. No S13- counter receipt voucher to certify whether goods were really received;</p> <p>IV. One response, Blue Chip Technologies Ltd.;</p> <p>V. No Inspection and</p>

	Item Description	Proc Method	Findings
			<p>Acceptance certificates to confirm delivery receipt of goods (Regulation 17(3)(b));</p> <p>VI. Lack of complete and comprehensive procurement file (Regulation 34(3));</p> <p>VII. Procurement proceedings not linked to an approved budget line section 26(6).</p>
7.	Purchase of executive desks, chair etc	RFQ	<p>I. No approval from procurement committee;</p> <p>II. No delivery note;</p> <p>III. No S13- counter receipt voucher to certify whether goods were really received;</p> <p>IV. One response, Fast Choice Ltd.;</p> <p>V. No Inspection and Acceptance certificates to confirm delivery of goods received (Regulation 17(3)(b));</p> <p>VI. Lack of complete and comprehensive procurement file (Regulation 34(3));</p> <p>VII. Procurement proceedings not linked to an approved budget line section 26(6).</p>
8.	Purchase of 11 Laptops	RFQ	<p>I. This procurement is supposed to be for open tender according to threshold matrix, first schedule, thus not adhering to the threshold matrix;</p>

	Item Description	Proc Method	Findings
			<ul style="list-style-type: none"> II. No delivery note; III. No S13- counter receipt voucher to certify whether goods were really received; IV. One response, Bloomerg Ltd.; V. No Inspection and Acceptance certificates to confirm delivery receipt of goods (Regulation 17(3)(b)); VI. Lack of complete and comprehensive procurement file (Regulation 34(3)); VII. Procurement proceedings not linked to an approved budget line section 26(6).
9.	Purchase of photocopying papers	RFQ	<ul style="list-style-type: none"> I. No approval from procurement committee; II. No delivery note; III. No S13- counter receipt voucher to certify whether goods were really received; IV. One response, Elite Book Centre Ltd.; V. No Inspection and Acceptance certificates to confirm delivery receipt of goods (Regulation 17(3)(b)); VI. Lack of complete and comprehensive procurement file (Regulation 34(3)); VII. Procurement proceedings not linked to an approved budget line section 26(6).

	Item Description	Proc Method	Findings
10.	Purchase of chairs & executive desk	RFQ	<ul style="list-style-type: none"> I. No approval from procurement committee; II. No delivery note; III. No S13- counter receipt voucher to certify whether goods were really received; IV. One response, Fast Choice Ltd.; V. No Inspection and Acceptance certificates to confirm delivery receipt of goods (Regulation 17(3)(b)); VI. Lack of complete and comprehensive procurement file (Regulation 34(3)); VII. Procurement proceedings not linked to an approved budget line section 26(6).
11.	Carpet cleaning services	RFQ	<ul style="list-style-type: none"> I. No approval from procurement committee; II. No delivery note; III. One response, Parapet Ltd.; IV. No Inspection and Acceptance certificates to confirm act of services (Regulation 17(3)(b)); V. Lack of complete and comprehensive procurement file (Regulation 34(3)); VI. Procurement proceedings not linked to an approved budget line section 26(6).
12.	Purchase of tonners		<ul style="list-style-type: none"> I. No approval from procurement committee;

	Item Description	Proc Method	Findings
		Direct procurement	<ul style="list-style-type: none"> II. No delivery note; III. No S13- counter receipt voucher to certify whether goods were really received; IV. One response, Elite Book Centre Ltd.; V. No Inspection and Acceptance certificates to confirm delivery receipt of goods (Regulation 17(3)(b)); VI. Lack of complete and comprehensive procurement file (Regulation 34(3); VII. Procurement proceedings not linked to an approved budget line section 26(6).
13.	Purchase of wall calendars, diaries, desk calendars & Christmas cards.	RFQ	<ul style="list-style-type: none"> I. This procurement is supposed to be for open tender according to threshold matrix, first schedule; II. No delivery note; III. No S13- counter receipt voucher to certify whether goods were really received; IV. One response, Capital colours creative design Ltd.; V. No Inspection and Acceptance certificates to confirm delivery receipt of goods (Regulation 17(3)(b)); VI. Lack of complete and comprehensive procurement file

	Item Description	Proc Method	Findings
			VII. (Regulation 34(3); Procurement proceedings not linked to an approved budget line section 26(6).
14.	Carpet cleaning	RFQ	<p>I. No approval from procurement committee;</p> <p>II. No delivery note;</p> <p>III. One response, Parapet Ltd.;</p> <p>IV. No Inspection and Acceptance certificates to confirm act of services (Regulation 17(3)(b));</p> <p>V. Lack of complete and comprehensive procurement file (Regulation 34(3);</p> <p>VI. Procurement proceedings not linked to an approved budget line section 26(6).</p>
15.	Purchase of executive desks- HRA	RFQ	<p>I. No approval from procurement committee;</p> <p>II. No delivery note;</p> <p>III. No S13- counter receipt voucher to certify whether goods were really received;</p> <p>IV. One response, Fast Choice Ltd.;</p> <p>V. No Inspection and Acceptance certificates to confirm delivery receipt of goods (Regulation 17(3)(b));</p> <p>VI. Lack of complete and comprehensive procurement file (Regulation 34(3);</p> <p>VII. Procurement proceedings</p>

	Item Description	Proc Method	Findings
			not linked to an approved budget line section 26(6).
16.	Purchase of Ms office 2007 for 11 new laptops.	RFQ	<ul style="list-style-type: none"> I. No approval from procurement committee; II. No delivery note; III. No S13- counter receipt voucher to certify whether goods were really received; IV. One response, Blue Chip Technologies Ltd.; V. No Inspection and Acceptance certificates to confirm delivery receipt of goods (Regulation 17(3)(b)); VI. Lack of complete and comprehensive procurement file (Regulation 34(3); VII. Procurement proceedings not linked to an approved budget line section 26(6).
17.	Legal fees –in the case of Nyaga Stockbrokers V/s Patrick Gakiavih	Direct procurement	<ul style="list-style-type: none"> I. No report to PPOA in accordance with PPOA’s circular No.3/2008 of August, 2008, where PEs are mandated to report on all procurement over Kshs. 500,000 to the Authority. II. No delivery note; III. One response, Parapet Ltd.; IV. No Inspection and Acceptance certificates to confirm act of services (Regulation 17(3)(b));

	Item Description	Proc Method	Findings
			<p>V. Lack of complete and comprehensive procurement file (Regulation 34(3);</p> <p>VI. Procurement proceedings not linked to an approved budget line section 26(6).</p>
18.	Mandarin Library Automation System	EOI	<p>I. No approval from procurement committee;</p> <p>II. No delivery note;</p> <p>III. One response, Mandarin Library Auto INC;</p> <p>IV. No Inspection and Acceptance certificates to confirm act of services (Regulation 17(3)(b));</p> <p>V. Lack of complete and comprehensive procurement file (Regulation 34(3);</p> <p>VI. Procurement proceedings not linked to an approved budget line section 26(6).</p>
19.	Inception reports – REIT/CIS	RFQ	<p>I. No approval from procurement committee;</p> <p>II. No delivery note;</p> <p>III. One response, Vista Capital Ltd.;</p> <p>IV. No Inspection and Acceptance certificates to confirm act of services (Regulation 17(3)(b));</p> <p>V. Lack of complete and comprehensive procurement file (Regulation 34(3);</p> <p>VI. Procurement proceedings not linked to an approved budget line section 26(6).</p>

	Item Description	Proc Method	Findings
20.	Medical cover – directors & new employees	Direct procurement	<p>I. No approval from procurement committee;</p> <p>II. No delivery note;</p> <p>III. One response, Eagle Africa INS brokers Ltd.;</p> <p>IV. No Inspection and Acceptance certificates to confirm act of services (Regulation 17(3)(b));</p> <p>V. Lack of complete and comprehensive procurement file (Regulation 34(3);</p> <p>VI. Procurement proceedings not linked to an approved budget line section 26(6).</p>
21.	Forensic professional fees and disbursements – Nyaga stockers Ltd.	Open Tender	<p>I. No approval from procurement committee;</p> <p>II. No delivery note;</p> <p>III. One response, Eagle Africa INS brokers Ltd.;</p> <p>IV. No Inspection and Acceptance certificates to confirm act of services (Regulation 17(3)(b));</p> <p>V. Lack of complete and comprehensive procurement file (Regulation 34(3);</p> <p>VI. Procurement proceedings not linked to an approved budget line section 26(6).</p>
22.	Fees for consultancy services OTC Mrkt	Open Tender	<p>I. No approval from procurement committee;</p> <p>II. No delivery note;</p> <p>III. One response, Vas Consultants;</p> <p>IV. No Inspection and Acceptance certificates to</p>

	Item Description	Proc Method	Findings
			<p>confirm act of services (Regulation 17(3)(b));</p> <p>V. Lack of complete and comprehensive procurement file (Regulation 34(3);</p> <p>VI. Procurement proceedings not linked to an approved budget line section 26(6).</p>

5.0 ACTION PLAN

No.	Tasks	Lead Accountable	Timeline	PPOA Review Date
1.	Keep procurement records and procurement proceedings as provided for in Section 45 of the Act, and Regulations 7 (e) and 34 (3).	AMP&L	Been done.	
2.	There is need to restructure the procurement unit so that it is in conformity with Section 26 (5) (b) of the PP&D Act 2005.	CEO	Been done.	
3.	Plan procurements through an annual procurement plan as provisioned in Section 26 (3) (a) of the Act and Regulation 20 (1) (2) of the PP&D Regulations 2006.	CEO/ AMP&L	Been done.	
4.	It is advisable that CMA recruit an internal Auditor to be reviewing /auditing the day to day transactions to prevent any of procurement anomalies that may occur.	CEO	Been done.	
5.	Qualify persons who shall be considered in a fair and equal rotation basis for participating in request for quotations as required by Regulation 59.	CEO/ AMP&L	List of approved prequalified suppliers in place. Procurement opportunities currently being shared among them on rotational	

No.	Tasks	Lead Accountable	Timeline	PPOA Review Date
			basis.	
6.	The use of standard tender documents should be upheld as required by Section 29 (4) of the Act and Regulation 29 (1).	AMP&L	Standard tender document as prescribed by PPOA are currently being used.	
7.	Submit to PPOA all the reports required and in accordance with the report format prescribed in the PPOA Circulars.	CEO/ AMP&L	Requisite reports as prescribed under the Act and regulations are currently being forwarded to PPOA.	
8.	Stock taking is a mandatory requirement in the procurement law and must therefore be undertaken.	CEO/ AMP&L	Stock taking is currently being done with the latest having been done on the 30 th June 2009.	
9.	Handing and taking over processes in the procurement function should be done diligently so that accountability for any mistakes is detected.	CEO/ AMP&L	This will be done on need by need basis.	
10.	Submit procurement committee reports for review by the Tender Committee every quarter as required by the law.	CEO/ AMP&L	This is already been undertaken.	
11.	Uphold the inspection of goods/services/works by the Inspection and Acceptance Committee any time deliveries/services are made.	CEO/ AMP&L	All goods whose contract value per single item is >Kshs 30,000.00 are currently being inspected by CMA's Inspection and acceptance	

No.	Tasks	Lead Accountable	Timeline	PPOA Review Date
			committee.	
12.	Choice of procurement method should be guided by the thresholds and conditions given in the procurement law.	AMP&L	Choice of procurement methods are currently being guided by the thresholds and conditions prescribed in the procurement Act and regulations.	
13.	Aggregate procurements especially those carried out through request for quotations so that the Authority may benefit from economies of scale.	AMP&L	Currently the procurement unit aggregates common user items and procures them at the same time.	
14.	Ensure that every committee involved in procurement proceeding is composed of adequate quorum all the time they are functioning.	AMP&L	Both the tender and the procurement Committees now operate at adequate quorum at all times.	
15.	Constitute disposal committee and develop an annual disposal plan for obsolete and surplus equipment and stores.	CEO/ AMP&L	The disposal committee was constituted in March 2009 and disposal process is in an advanced stage.	

6.0 CONCLUSION

The procurement law is designed to ensure that works, goods and services are acquired in an efficient, effective, transparent, fair and accountable manner so that procuring entities and the public in general get value for money. This is expected to be achieved mainly through open and free competition amongst suppliers, but also through the other alternative procurement procedures provided in the Act. The Act also provides that prudent procurement processes demand proper record keeping to enhance accountability in the procurement processes undertaken.

The review was mainly intended to assess whether the procurement functions at the Authority comply with the requirements of the Public Procurement and Disposal Act 2005, Public Procurement and Disposal Regulations 2006 and generally accepted good practices. There were deviations in the structure of the procurement unit where the procurement functions were carried out by a non-professional during the review period until later in the year 2008. The current structure also requires adjustment since the Head of Procurement Unit is by formal appointment the Finance Manager of the Authority though the Secretary to the Tender Committee is the newly recruited procurement professional. The procurement professional reports to the Finance Manager which creates conflict of interest and complicates accountability requirements. The Authority had not established a Procurement Committee during the review period and the Tender Committee at the time would not adjudicate for procurements below Ksh 500,000. All procurements below the aforementioned threshold were therefore irregularly concluded. The quorums in most of the Tender Committee meetings were inadequate though the committee went ahead and awarded them. However, it was commendable that later the entity corrected this anomaly and ensured that there was adequate quorum during Tender Committee adjudication. It was also commendable that the Secretary to the Tender Committee at the time recorded and kept minutes of the deliberations.

The major challenge in the procurement function at CMA which the reviewers faced was lack of procurement records particularly standard tender documents. Retrieving records for review purposes was difficult and time consuming. Some records pertaining to execution of the procurement process were either lacking or incomplete. This deficiency requires the urgent attention of the Accounting Officer, since poor record keeping compromises validity, authenticity, quality and reliability of the information coming from the entity.

The Procurement Unit should keep in regular touch with PPOA; seeking their guidance on matters which are not clear to them as stated in the law to avoid misinterpretation of the law and to avoid delays in provision of services to its users. Possibly CMA should seek such clarification or directives from PPOA in writing in matters related to procurement functions. PPOA also may organize for training on procurement matters at the request of the entity. The Procurement Unit during the period of the review did not

provide adequate technical guidance to the Tender Committee and the entity in general. The Accounting Officer should ensure that such a situation is avoided.

While PPOA is tasked with assessing and enforcing compliance with the procurement law, CMA needs to reduce risk by ensuring that it institutes internal mechanisms which check for compliance with the procurement law within the various departments. An effective compliance program such a strong Internal Audit Office can make CMA more effective and efficient in reducing the risk of internal and external threats in the procurement function, while at the same time providing proof of compliance demanded by PPOA.

There are adverse risks from non-compliance with procurement law and regulations, which can have far-reaching consequences to CMA, including fraud, corruption, mis-procurement, collusion and financial loss. An active internal compliance-check program will enable the organization to accurately detect the violations, and take appropriate action (even blocking the payment from being made), and to quickly find and review the violation in order to address the situation, preventing further damage or loss.

The recommendations made in this report are based on findings from the sampled cases aforementioned above. The Authority should restructure the Procurement Unit so that it functions within the provisions of the procurement law and ensure that records and documents related to each and every procurement is properly kept. The Authority should not hesitate to contact PPOA at any time for clarification and advice; and, also explore ways of collaborating with other public entities to take advantage of opportunities for benchmarking on best practices by others. The corrective actions as enumerated in the action plan will have to be implemented and PPOA will later do a follow-up to assess on the status.